

## THE DAILY CLARION.

BY HAMILTON, POWER &amp; CO.

J. J. SHANNON,  
R. F. JONES,  
J. S. HAMILTON,  
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JACKSON, MISS.

Wednesday : : : December 19, 1866

The Comptroller and Agricultural  
Commissioner.

We omitted the other day, in reviewing the reports accompanying the President's Message, to mention the Report of the Comptroller of the Currency and the Commissioner on Agriculture. The report of the Comptroller shows there are now in operation 1,647 National Banks throughout the United States, with a paid capital of \$17,245,124 07, and bonds on deposit amounting to \$332,467,700. The aggregate circulation of the same amounts to \$292,674,753. Sixteen banks not included in the above have failed, or are closing under the provisions of section 42 of the act. With these exceptions, the National Banks, throughout the country are in a sound and healthy condition. Their total resources on October 1, 1866, were \$1,525,498,960; their liabilities to the public for circulation and deposits were \$1,024,274,286; a surplus of \$501,221,574 for capital and earnings. The report shows an increase in the circulation of National currency of over one hundred millions of dollars, but when we consider that during the same period State banks converted into National ones have withdrawn \$50,000,000, the actual increase is reduced to something like \$50,000,000. The Comptroller draws attention to the non-participation of the Southern States in the advantages of the National banking act, and consequent loss they sustain, and thinks provision should be made for their benefit, and not to allow foreign capital to control the products of those States, as it now does. He discusses the measures of relief which have been suggested for supplying the Southern States with banking facilities, and meets the objections offered, and thinks that good could be accomplished by an issue of twenty-five millions, at the rate of one or two millions per month, which would probably meet all the wants of the States for two years to come, while the reduction of legal tenders at the rate of four millions per month as provided by law, will keep the amount of currency in circulation always within proper bounds. He makes quite a number of recommendations of the special interest here, and then closes with a fine eulogy on the banking system.

Commissioner Newton, of the Agricultural Bureau, gives some interesting facts touching the workings of his department. The returns of the statistical division of this department have hitherto been confined to what we call the "Northern States." Hereafter the wayward brethren of the South will be included. In 1865 the wheat crop was estimated at 148,000,000 bushels, and the present estimate is still further reduced to 143,000,000. Returns from the eleven Southern States, so far as received, warrant an estimate of 17,000,000 of this section.

The corn crop is moderately large but deficient in quality, and may be estimated at 880,000,000 bushels, about 40,000,000 more than in 1859. In some Southern States a small yield is reported, while in Texas the quantity is more than the average. In the Northwestern States the injury from early frosts was severe. The hay crop, slightly deficient in some sections, is large in others, and the estimated total product of oats is sixty per cent. greater than in 1859. The products of gardens and the yield of potatoes and other roots are also in excess of former years. The cotton crop is put down at 1,750,000 bales of 400 pounds each—a very extravagant estimate, and one in which Mr. Newton will find himself disappointed.

## Dolbear Commercial College, New Orleans.

The New Orleans Times, referring to this popular institution, very truthfully remarks, that "it has proved itself perhaps one of the most successful and practically useful colleges in the United States. Parents, who have had the experience of life and its duties, will appreciate the advantages of a college which aims to fit the youth of the land for the intelligent and faithful discharge of those tasks which inevitably devolve upon every beginner.

In such a country as ours the first duty of a parent is to teach his children how to be useful to themselves, and to render them, as far as possible, independent of the advantages of life, and it is by giving them the advantages of a thoroughly practical commercial education that this consummation may be reached. Young men who desire to secure themselves an honorable position must first look to their capital, and no better capital could possibly be acquired than just that practical knowledge of business which is the secret of wealth and success; indeed without this, mere money is valueless, or becomes the prey of the first shrewd and plausible swindler that presents himself.

"The departments of the Dolbear College are all under the charge of able and experienced professors, and all the rules and regulations of the college have been the fruit of long experience, adopted solely for the interests and advantage of the student. The college is admirably located, in the elegant and spacious story building, corner of Camp and Common streets, and we learn that accommodations are ample for as many as one thousand students."

Jacob Barker, of New Orleans, celebrated his eighty-seventh birthday on Monday last, and bids fair to retain a vigorous mind and body until he reaches a century of years.

It is eighteen years since a man with a middle name occupied the presidential chair.

A black fowl can show the white feather.

Several leading members of Congress are in favor of making an experiment to see if the Postoffice Department cannot advantageously manage the telegraph. The proposition is to build a line from here to New York, declare it a post route, put it under the control of the Postmaster General and require each message to bear a three cent stamp for every twenty words. It is believed that the line would yield a handsome revenue. The present Postmaster General is understood to think the scheme entirely practicable. We'll see.

General Wood shows that laws remain in force in Mississippi which prohibit freedmen from purchasing real estate, or from bearing arms without a special license.—St. Louis Democrat.

These laws do not remain in force; such high authority as that of General Wood, to the contrary notwithstanding. Freedmen purchase real estate whenever they have the disposition or ability so to do, and as for arms, they have very generally supplied themselves, and without a "special" or any other sort of license. These are the facts. Why misrepresent them?

DECISIONS OF THE HIGH COURT  
OF  
ERRORS AND APPEALS.

APRIL TERM, 1866.

Reported Expressly for the Clarion.  
Margaret Q. and A. B. Treadwell  
vs.  
Mary G. Herndon, Guardian.

Error to Probate Court of Madison County.  
Hon. W. L. Harris delivered the opinion of the Court.

The questions presented in this case arise out of a motion made in the Court below to quash a writ of *fiat* issued from the Probate Court on the 13th day of October, 1865, in favor of the defendant in error against the plaintiffs, commanding the Sheriff to make certain sums of money therein specified out of the goods and chattels, lands and tenements, and estate of Lawson F. Henderson, deceased, in the hands and possession of said Margaret Q. Treadwell and Ann Elizabeth C. Postell, distributees of the estate of said Henderson, deceased. 1st. Because said execution issued in violation of the "Stay Law."

2d. Because said execution issued against the lands of decedent after the discharge of the administrator, and without revivor or sci. fa. against the heirs, distributees or terre-tenants.

3rd. Because said execution commanded the Sheriff to make the costs without stating the amount thereof.

4th. Because the execution had been superseded; and said supersedeas remains undischarged.

5th. Because the decree upon which it issued was void.

This motion was overruled upon the hearing in the Court below, and a Bill of Exceptions taken and filed, setting out all the facts in evidence. The action of the Court reversing this motion, is the error complained of here.

It appears by the record that, on the 16th day of November, 1860, defendant in error as Guardian for B. P. Herndon, recovered a judgment against the administrator of Love as administrator of Lawson F. Henderson, deceased. That on the 12th of January, 1861, a writ of *fiat* issued from the Probate Court, directed the administrator to surrender his trust, shall continue to be answerable to the jurisdiction of the court, until final settlement and satisfaction shall be made, and until that time shall be liable on his bond.

It follows from this, that he had the right to execute the writ of error bond, and apply for the writ of error in this case.

It is next insisted that the *fiat* was, in fact, issued against the goods and chattels, lands and tenements, of Lawson F. Henderson, deceased, in the possession of the distributees.

The judgment on which this execution is ordered by the court to be issued, was originally in favor of Mrs. Herndon, Guardian, &c., vs. Jefferson Love Administrator of the estate of Lawson F. Henderson, deceased.

The order was made without any proceeding, and without notice to any person who was not a party to the original judgment; and further directs the sale of the lands of the decedent, in the hands and possession of the heirs at law, under a judgment obtained against the Administrator after the death of the decedent.

The order was void—if it could have been made at all—for the want of notice. In the case of N. O. and J. R. R. Co. vs. Rollins, Administrator, 36th Miss. R., p. 384, it is said: "As a general rule, no execution can ever be issued in favor of or against a person who is not a party to the original judgment, or made so by some proceeding subsequent thereto. Bacon Abr. C. 4, 2d Tucker, Conn., p. 340." "Nor can any person be made a defendant to the execution, by such subsequent proceeding, who is not chargeable with the debt or claim." Bacon Abr. C. 4, 2d Tucker, Conn., p. 340. In such a case a *scire facias* is necessary. Smith vs. Winston, 2d Howard, 601. Davis vs. Helm, 3d S. & M., 17.

But in this case no execution could have been properly issued even upon notice by *scire facias* against the real estate of the decedent in the possession of his heirs at law. No judgment was obtained against the ancestor in his life-time and consequently no lien existed.

The judgment against the Administrator of the decedent, could only be operative as a lien upon the property in the hands of the Administrator, to be administered.

The real estate of the ancestor does not vest in the Administrator, nor is it primarily liable at all, to the payment of debts. The Administrator as such has no interest in, or power over the real estate of the decedent. But it vests immediately on the death of the ancestor in his heirs at law.

Neither Art. 31, p. 431 of the code, nor the case of Powell vs. Burris, 35th Miss. R., p. 605, have the least application to this case as here presented.

Nor have the cases of Burris vs. Lewis, 1 Howard p. 207, and Van Houton vs. Riley 6th S. & M., p. 440. These were both cases where judgments had been obtained against the Administrator and levied on personal property belonging to the estate of decedents.

Whether we regard the execution as superseded or as issued against third parties without notice, or against the lands of decedent in the hands of the heirs, in either view of this case, the motion to quash the execution should have been sustained.

Let the judgment of the court below upon the motion of the plaintiffs in error to quash the execution be reversed, and an order quashing the execution entered here.

Our friend Mayers, of the Hands-boro' Democrat, is still calling for a "sober, industrious" printer. Can't some one be found eligible for the "sit."

Lawson F. Henderson, deceased, and his securities "are held and firm bond." &c. and both the petition and bond are signed "Jefferson Love." His official character is sufficiently stated in the body of both instruments, and clearly indicates his intention, to speak and bind himself in his representative character. It has been too often and too long settled, that a public officer whose character is such as is stated in the body of the certificate, or other instrument executed by him, in his official capacity, need not do more than append his name, to require reasoning or citation of authority on that subject.

But it is said that he had been discharged from his trust before the execution of these instruments, and could not, therefore, further act in his character of administrator, and that the bond is for this reason void.

It appears in the record, that by an arrangement between the husbands of the distributees of the estate of Lawson F. Henderson, deceased, and the administrator, Love, the Probate Court discharged him from further accountability to that Court. This was done without notice to the distributees. The record shows no citation ever issued; but it recites that, "it appearing to the Court, that A. B. Treadwell and his wife Margaret Q. Treadwell, and Joseph H. Postell and his wife Ann E. C. Postell, having been duly notified, &c., and that M. Q. Treadwell and Ann E. C. Postell are the only heirs at law and distributees of the estate of Lawson F. Henderson, deceased, and their waiver of citation having been filed on record, and their consent to its adoption and allowance" &c. This waiver of citation and consent, as appears by the record, is signed by Postell and Treadwell for their wives respectively, and this is evidently the evidence upon which is based the recital in the record that the distributees had been "duly notified," as there is no citation returned executed appearing in the record.

The question then arises, whether this was a waiver of notice by these distributees, or whether their husbands in the absence of any evidence of authority, could waive for them the notice required by the statute, upon the application of the administrator to surrender his trust. Code, p. 439, art. 67.

Upon this point we think it clear, that the husband has no such right, under our law. He is not the general agent of the wife, in relation to her separate estate. Atwood vs. Meredith et al 37th Miss., 635, 641. And to allow the husband, thus to bind the wife, and conclude her by the judgments of the Probate, or other courts, would defeat the whole law in reference to the estate of a married woman.

This was therefore a judgment or decree of the Probate court, without the notice required by the statute above cited, and this court has often held, in reference to this, and all other courts, upon general principles, that their judgments are void as against all parties "interested therein, who for want of notice, have been excluded from their day in court."

In the case of Neal vs. Wellons, 12th S. & M., 649, it was held that a final settlement and discharge of an Administrator, without giving notice by the statute by the statute, is void. Neylands et al vs. Burge et al 14th S. & M., 201, is to the same point. In the subsequent case of Winborn vs. King et al, this court says: "A final settlement, to be conclusive upon the parties interested, in the estate, and to have the effect of discharging an Administrator, can only be made upon notice such as the statute requires, and the record must show the notice. But the proceeding is not void for all purposes. It has such force and effect as the law gives to *ex parte* settlements, or as they are usually called, annual settlements." They are valid to the extent, because the law requires no notice in the case of annual returns or settlements, made by an Administrator; all parties interested, having the right to be heard in relation to them, after notice, when final settlement is proposed to be made.

The account filed as a final account, is then to be regarded as an annual account of the Administrator, Love, filed at the November term, 1860, and it follows from Art. 67, Code, p. 439, that the Administrator, Love, was not discharged by the decree of January, 1861. The article provides that every Administrator or Administrator, who may be removed or surrendered his trust, shall continue to be answerable to the jurisdiction of the court, until final settlement and satisfaction shall be made, and until that time shall be liable on his bond.

It follows from this, that he had the right to execute the writ of error bond, and apply for the writ of error in this case. It is next insisted that the *fiat* was, in fact, issued against the goods and chattels, lands and tenements, of Lawson F. Henderson, deceased, in the possession of the distributees.

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## BY TELEGRAPH.

REPORTED EXPRESSLY FOR THE CLARION.

## THE MARKETS.

## CONGRESSIONAL.

NEW ORLEANS, Dec. 18.—Cotton is in good demand and advanced 1c; sales 3800 bales; low middling 30@31; middling 32c. Sugar is in moderate demand 94; prime to choice 104@114; molasses is in fair demand—fair 60; prime to choice 62 to 68; flour steady, superfine 114; single extra 114; double 124; XXX 134. Corn in good demand—mixed \$1 05; white \$1 10. Oats active 82 to 85; Hay \$26 50 to 75 for prime. Pork sales to loyal trade at \$23 50 for mess; bacon shoulders 124; ribbed 124; clear 15; lard 124 to 134. Sterling 49 1-2 to 50; New York sight 1-2 discount. Gold 374 to 38.

WASHINGTON, Dec. 18.—In the Senate Mr. Trumbull presented a petition from the citizens of Louisiana, signed by Gov. Wells and others, stating that the present political organization in Louisiana is not republican or loyal and asking that they be superceded and a Provisional government be established. He proceeded to make a speech on the subject, in which he said that the duty of Congress was set aside by these political organizations, and commended the memorial to the attentive consideration of the Reconstruction committee.

The bill for the admission of Nebraska was then taken up—the motion being on the amendment of Mr. Brown, denying admission until civil and political rights are secured to all, without regard to color. Without voting on the amendment the Senate went into executive session and then adjourned.

In the House a bill was passed granting lands for a Railroad from Puget Sound to the Columbia River.

The Speaker announced that the committee on direct taxes and forfeited bonds ordered by the House yesterday, was as follows: Messrs. Conkling, Donnelly, Dawes, Schofield and Hardin, of Ky.

Mr. Stokes presented a petition from the colored people of Tennessee for the removal of all political inequalities on account of race or color. The House went into committee of the whole and discussed the Legislative, Executive and Judiciary appropriation bill. Without finishing the bill the committee rose, when the death of Senator Wright was announced and the House adjourned.

Further advices from Europe increases and intensifies the interest of the narrative of the pursuit of Sumner after his escape from Rome.

NEW YORK, Dec. 18.—Cotton firm—sales 3,000 bales at 34 1-2 for uplands and 35 1-2 for Orleans.

The New Bowery Theatre was entirely destroyed by fire this p.m.

ROME, Dec. 18.—Antonella has settled the dispute with Gen. King and the Pope. The Pope it appears misunderstood the Minister.

SWETSBURG, C. E., Dec. 18.—There is much excitement here this morning, alarm having been given that the Fenians were coming to rescue the prisoners. The volunteers immediately got under arms and the whole force went out but subsequently ascertained the rumor was false.

NEW YORK, Dec. 18.—Cotton quiet and firm at 34; Gold opened 388, now 38; Money 5 to 6.

TORONTO, Dec. 18.—A weekly line of first class steamers is to be established to run between the Maritime Provinces and the West Indies. A large amount of stock has been subscribed.

WASHINGTON, Dec. 18.—In the Senate Mr. Johnson presented the credentials of Mr. Jones, Senator elect from Arkansas, for six years, commencing March 4, 1865, and it was ordered to lie on the table.

Mr. Sumner presented a memorial of the Union League, of Norfolk, Va., for the establishment of a territorial government in Virginia, and the appointment of Judge Underwood as Governor. Referred to the Committee on Reconstruction.

Mr. Salsbury presented a petition of foreigners who have declared their intention of asking that the right of suffrage in the district be extended to them. Referred to the committee on the District.

A petition for increased pay of army officers was presented and referred.

Mr. Morgan presented the petition of Chas. O'Connor and other lawyers for an increase of pay to U. S. Judges. Referred to the Judiciary committee.

In the House, on motion of Mr. Orth the President was requested to communicate copies of all correspondence on the evacuation of Mexico by the French troops that has not been heretofore officially published.

On motion of Mr. Wilson, of Iowa, the Judiciary committee was discharged from the further consideration of the House joint resolution for the protection of citizens of the U. S. in the matter of public loans of the republic of Mexico, and the same was referred to the committee on Foreign Affairs.

Mr. Brame offered a resolution instructing the committee on Naval affairs to inquire into and report on all the facts connected with the destruction by fire of the Iron clad war steamer, *New Ironsides*, on the night of the 15th of December, with such recommendation as the facts may demand and with power to send for persons and papers and to report at any time.

Mr. Washburn favored the resolution, but said he would thank the gentleman from the committee to state the facts connected with the destruction of that magnificent Iron Clad. Mr. Brame declined to make any statement at present. It was a subject of importance and one on which the House and country should be informed. It would be indecorous to make any statement on *ex parte* testimony such as had been published in the newspapers. The resolution was adopted.

The North Carolina delegation, headed by Gov. Worth, had an interview yesterday with the President and Attorney General regarding the subject of Gen. Sickles' new orders in the Carolinas prohibiting corporal punishment. The interview is reported satisfactory, and the delegation hopes from the intimations they received that their object will soon be accomplished.

Boston, Dec. 18.—The correspondence connected with Gen. Schuyler's removal

from the office of Adjutant General is published: from which it appears that reasons assigned by Gov. Bullock for making the removal is one of a political nature and based principally upon a circular issued by Gen. Schuyler opposing the election of Gen. Butler to Congress.

NEWARK, N. J., Dec. 18.—Beecher lectured last night in favor of universal suffrage including black and white men and women.

LOUISVILLE, Dec. 18.—St. Louis flour steady and unchanged; Wheat quiet and firm at \$2 20 for Spring; 2 1/4 @ 20 for Fall. Corn dull at 85@95. Rye inactive but firm. Barley firm. Provisions steady. Whiskey firm \$2 21. Hogs 64.

## NEW ADVERTISEMENTS.

Do You Need a First Rate Tonic?

BUCK'S AROMATIC BITTERS is prepared of the best ingredients, is recommended by practicing physicians, and warranted equal if not superior to anything of the kind extant, as a remedy for

DYSPEPSIA,  
INDIGESTION,  
WANT OF APPETITE,  
AND GENERAL DEBILITY.

Try Them.

Prepared only by

BUCK & BAILEY, Druggists,  
Dec 19 d4wlm Jackson, Miss.

## BLACKSMITHING.

ALL kinds of Wagon work done, and Horses and Mules shod, at the Penitentiary.  
Dec 19 d4lm J. W. YOUNG & CO.

## BOOTS AND SHOES MADE.

WE are prepared to manufacture all kinds of Boots and Shoes, at low figures, at the Penitentiary.  
Dec 19 d4lm J. W. YOUNG & CO.

S. G. NEWCOMER & CO.,  
Agents for the

## MISSISSIPPI MANUFACTURING COMPANY,

WE have on hand, and are receiving the superior Cotton Yarns manufactured by this Company. We invite the trade to call and examine their yarns.  
Dec 19 d4wlm

## PLOW BRIDLES, Harness, Collars, Back Bands and Chains, at

G. D. SIDWAY'S,  
Capitol street.

## A FIRST RATE TOP BUGGY, from Custom Factory, and No. 1 two horse wagon,

G. D. SIDWAY,  
near Capitol street.

## A Teacher Wanted.

A TEACHER FOR COLORED PUPILS is wanted on a plantation near this city. Address Box 156, Jackson Post Office.  
Dec 18 d4t

## SOULES COMMERCIAL AND TELEGRAPH COLLEGE.

80 Camp Street, Corner Natchez,  
New Orleans.

Founded, 1856; Chartered, 1861. This is a full course Commercial or Business College, in all its departments perfect. Banks and stores are connected, goods actually bought and sold, the books regularly kept, and all the attendant duties of the clerk, book-keeper, correspondent and vice-vant, are practically performed by the student.

The Diplomas and Premiums for the best Penmanship and Pen drawing were awarded to this institution, over all competitors at the Louisiana State Fair.

Mr. R. F. Montgomery, Premium Penman, has charge of our Writing Department. All branches of a thorough Business Education are taught by instructors of experience and ability.

For circulars, containing full information, call at the office, or address,  
Dec 18 d4wlm GEO. SOULE, New Orleans.

## NOTICE.

MAYOR'S OFFICE, Jackson Dec. 18, 1866. ALL persons who may have accounts, or claims, or demands of any nature or description against the city of Jackson, are requested to present them before the 1st of January, so that they can receive attention.

D. N. BARROWS,  
Mayor.

## Piano For Sale.

ANY person desiring to purchase a SECOND-HAND PIANO, in good order, can be accommodated by calling upon the undersigned at Barfield's jewelry store.  
Jackson, Dec 18-3d P. RIVINAC.

## NOTICE.

Land for Sale—A Great Bargain. 760 ACRES of splendid land for sale, four miles west of Jackson, in good dwelling house and gin on the place. Undoubtedly title. Terms \$3000 cash. For further information call on T. F. Owen.  
Jackson, Miss., Dec 14 d4t

## Notice.

CORN will be ground every day in the week at the Penitentiary, for citizens and the country people. Fresh white corn meal for sale at all times  
J. W. YOUNG & CO.  
Jackson, Nov 23-4lm

## RECEIVED FROM NEW YORK.

10 BBLs Family Buckwheat,  
20 Boxes  
For sale very low by  
CRANE & HILZHEIM

## JUST RECEIVED.

10 BOXES English Dairy Cheese,  
CRANE & HILZHEIM,  
Received per Steamer Morning Star from New York.

## Received from New York.

20 Firkins Choice Goshen Butter,  
Very convenient for family use, as they contain from 20 to 25 pounds.  
CRANE & HILZHEIM.

## Just Received.

50 BBLs Cape Jessamine Flour,  
CRANE & HILZHEIM.  
Received from New York.

## Received from New York.

5 BBLs No. 1 Mackeral,  
10 1/2 " " "  
20 Kits " "  
20 Kegs Hillard Herring.  
CRANE & HILZHEIM.

## Received from New York.

20 BOXES Choice N. Y. Dairy Cheese,  
For sale by  
CRANE & HILZHEIM.

## NEW ORLEANS

KNIGHT &amp; CO.

—DEALERS IN—